



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/426,063	10/22/1999	GREGORY J. MESAROS	GEDP106US	1360

23623 7590 07/02/2009
TUROCY & WATSON, LLP
127 Public Square
57th Floor, Key Tower
CLEVELAND, OH 44114

EXAMINER

RUDY, ANDREW J

ART UNIT	PAPER NUMBER
----------	--------------

3687

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

07/02/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket1@thepatentattorneys.com
hholmes@thepatentattorneys.com
lpasterchek@thepatentattorneys.com

Office Action Summary	Application No. 09/426,063	Applicant(s) MESAROS, GREGORY J.	
	Examiner Andrew Joseph Rudy	Art Unit 3687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2009 and 07 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 39-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 39-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Supplemental Appeal Brief filed on March 12, 2009 is persuasive with regards to the finality of the rejection of the last Office action. Therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-8, 39 and 43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 9, "a product and service" is not clear if this is the same "product and service" referenced from claim 1, line 4.

Claim 1, line 1, "the particular product or service" is not clear what is being referenced. Applicant recites both "a product and service" from claim 1, lines 4, 9. However, it is later claimed in the alternative.

Claim 43, line 1, "the at least one good or service" is not clear what is being referenced. Applicant recites both "a product and service" from claim 40, line 6. However, it is later claimed in the alternative.

Clarification is required.

Claim Rejections - 35 USC § 103

4. Claims 1-8 and 39-58, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fraser, US 5,664,115, in view of Halbert et al., US 6,101,484.

Fraser discloses, e.g. Figs. 1-9 and related text, a computer implemented method for transaction business over a network comprising a computer, e.g. 4, a plurality of price and non-price buying criteria, e.g. S109, where buyers and sellers are intermixed to correlate deals where a list of matched deals are outputted to the buyer/seller. Fraser is silent with regards to outputting deals in real-time and notifying the seller of a particular product or service when the buying criteria does not match the seller criteria.

Halbert discloses, e.g. Figs. 1-7 and related text, a computer implemented method for transaction business over a network comprising a computer, e.g. 22, a plurality of price and non-price buying criteria, e.g. 178, where buyers and sellers are intermixed to correlate deals in real-time where a list of matched deals are outputted to the buyer/seller. Halbert discloses, e.g. claim 4, where notification to a party, i.e. buyer, are notified when the buying criteria does not match the seller criteria.

To have provided real time listing of deals for Fraser would have been obvious for one of ordinary skill in the art in view of Halbert. The motivation for having done such would have been quicker communication regarding the deal making process. To have notified the seller of a non-match of criteria for Fraser would have been obvious in

Art Unit: 3687

view of Halbert. The motivation for having done such is that notification of either of buyer or seller of a disagreement over terms has been common knowledge in the bartering art. To have simply notified the seller instead of the buyer would have been obvious to one of ordinary skill in the art.

5. Applicant's Information Disclosure Statements (IDS's) submitted May 7, 2009 have been reviewed. Note the attached IDS's.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 571-272-6789. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

Application/Control Number: 09/426,063

Page 5

Art Unit: 3687

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew Joseph Rudy/

Primary Examiner, Art Unit 3687